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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,152	12/18/2003	K. Bryce Flake	01842-22373	6012
20551 7590 08/24/2007 THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 350 SANDY, UT 84070			EXAMINER JOHNSON, GREGORY L	
			ART UNIT 3691	PAPER NUMBER
			MAIL DATE 08/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/742,152	<b>Applicant(s)</b> FLAKE, K. BRYCE	
	<b>Examiner</b> GREGORY JOHNSON	<b>Art Unit</b> 3691	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the application filed December 18, 2003.

Claims 1-22 have been examined.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8 and 11-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Herman et al., Pub. No. 2002/0035489 (hereinafter Herman).

**Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

As to claims 1-5, 8 and 11-22, Herman discloses the following limitations:

- a method and system for funding non-profit organizations (Abstract)

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- identifying persons having an interest in a non-profit organization (para. 0007 and 0013;
- identifying at least one product and/or service typically acquired by those persons (para. 0007;
- initiating a sale of the at least one product and/or service made to the persons having an interest in the non-profit organization (para. 0007);
- organizing distribution of earnings from the sale of the at least one product and/or service to an escrow account (Abstract and para. 0010);
- organizing the distribution of earnings from the escrow account according to suggestions from the non-profit organization (Abstract and para. 0010);
- funding a budgetary requirement of the non-profit organization from the earnings that are placed in the escrow account (para. 0010-0011);
- organizing distribution of the earnings from the escrow account includes the more specific step of directing distribution of the non-profit organization's earnings from the escrow account according to instructions to an escrow account manager including the non-profit organization's budgetary needs and surplus budget needs (para. 0010-0011 and Appendix B);
- providing for donation of any excess earnings in the escrow account, available after the non-profit organization's budgetary needs and surplus budget needs have been met, to a foundation (para. 0010-0011);

- enabling the non-profit organization to suggest to the foundation to donate excess funds to one and/or more charitable causes (e.g. mission; para. 0007-0008, 0022 and 0026);
- identifying at least one product and/or service involves the more specific step of providing a product and/or service through an intermediary group (Abstract and para. 0026);
- identifying at least one product and/or service typically acquired includes the more specific step of providing at least one product and/or service selected from the group consisting of insurance, mortgage securities, private loans, commercial loans, and investment placements (Abstract);
- initiating a sale of at least one product and/or service comprises initiating the sale through the management center (Abstract and para. 0026);
- enabling the management center to establish an agreement with the non-profit organization for the non-profit organization to be an independent representative of an intermediary group (e.g. directly purchasing life insurance policies; see Abstract; para. 0008, 0013 and 0022-0027)
- a qualifying entity acts as an agent of the non-profit organization and the qualifying entity is an independent representative of the intermediary group (para. 0024, 0026 and 0048);
- enabling the intermediary group to pay profits earned from the sale of one and/or more goods and/or services provided by the intermediary group to the

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escrow account of the non-profit organization that earned said profits (para. 0010);

- a computer link to an Internet site for providing access to a list of persons having an interest in the non-profit organization (para. 0012-0013 and 0048);
- a database coupled to the computer implemented means for accessing a list of persons having an interest in the non-profit organization (para. 0013 and 0051);
- software associated with the computer implemented means to organize the distribution of earnings from the sale of the at least one product and/or service (para. 0012 and 0048-0049);
- a computer link to an internet site for providing access to the escrow account (para. 0012-0013 and 0048-0051); and
- computer implemented means for organizing distribution of the earnings from the escrow account includes access to an Internet site (para. 0012 and 0048).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman in view of Teacherson, Pat. No. 6,578,010 (hereinafter Teacherson).

As to claims 6 and 7, Herman does not disclose the following limitations:

- identifying persons having an interest in a non-profit organization includes the more specific step of using network marketing to identify persons having an interest in a non-profit organization; and
- using network marketing further comprises the step of establishing a management center to manage the network marketing campaign.

However, Teacherson teaches a method that provides specific operating means for multi-level, network or referral marketing operation processes and more specifically to means for handling, under human control, many independent groups under the banner of an overall operating system while retaining each group's own individual identity. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as taught by Teacherson within Herman for the motivation of providing a computerized system for handling a

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multi-node (e.g. the many entities disclosed by Herman) network marketing (Abstract and col. 2, lines 11-67).

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herman in view of Hoins, Pub. No. 2002/0052811 (hereinafter Hoins).

As to claims 9 and 10, Herman does not disclose the following limitations:

- identifying at least one product and/or service typically acquired includes the more specific step of providing at least one product that is a utility provided by an intermediary group; and
- identifying at least one product and/or service typically acquired includes the more specific step of providing at least one product that is a utility provided by an intermediary selected from the group consisting of telephone, electric, gas, sewer, water, and garbage.

However, Hoins teaches that a system can be used to provide provides an efficient method of promoting and selling utility services. In addition, Hoins teaches that the customers are allowed to contribute to a designated charitable organization (para. 0010-0011). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation as taught by Hoins within Herman for the motivation of a non-profit organization increasing predictable, sustainable income combined with decreasing marketing and administrative expenditures (para. 0007).




***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY JOHNSON whose telephone number is (571) 272-2025. The examiner can normally be reached on Monday - Friday, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**LALITA M. HAMILTON**  
PRIMARY EXAMINER

GREGORY JOHNSON  
Examiner  
Art Unit 3691

